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No. 1277

IN THE

Supreme Court of the United States

In the Matter
of
The Application to Discipline JULES CHOPAK, an Attorney and Counselor at Law.

JULES CHOPAK,

Appellant.

PETITION FOR REVIEW ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT AND BRIEF IN SUPPORT.

JULES CHOPAK,
in Propria Persona,
Appellant,
Office & P. O. Address,
261 Broadway,
New York 7, N. Y.

BATAVIA TIMES, LAW PRINTERS,
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PETITION.

Short Statement of the Matter Involved.

As stated by Clark, Circuit Judge, dissenting, a letter (R. p. 50, fols. 148-150) was the crucial issue for which the District Court of the United States for the Eastern District of New York suspended me from practice for 3 years. That action carried with it *instanter, ipso facto,* without a hearing etc., the identical penalty in the District Court of the United States for the Southern District of New York and perhaps such or similar or some penalty in other federal courts including possibly this court in which I was admitted on February 17, 1917.

Other charges were added originally, which appear upon response to the appeal, not to have been pressed in the Ap-

pellate Court. They were remarks that I made in personal correspondence to my client during our attorney and client relationship and afterwards, when I was yet interested in the case to the greater share of the attorney's fee, and also some testimony of a critical nature which I made during testimony in a hearing, given under cross-examination, when being cross-examined by an opponent. As to this remark, instantly I recalled it, and immediately, I expressed my regret. Thereafter, I repeatedly strove to disavow and to make amends (R. p. 49, fol. 145, p. 14, fols. 41, 42; p. 16, fol. 48; *pp. 63, 64, fols. 189,* 190; p. 112, fol. 335).

The Charges in their entirety are contained in the Bill of Particulars (R. at pp. 37 to 50, fols. 109 to 150).

Basis on Which this Court has Jurisdiction.

The decree to be reviewed was made March 18, 1947 (Swan and Chase, JJ. concurring for affirmance; Clark, J. disagreeing and voting for remanding). The Review is sought under Sec. 240 (a) of the Judicial Code and also the First Amendment to the Constitution, in the light of Pennekamp v. Florida, 328 U. S. 331 and Bridges v. California, 314 U. S. 252.

A substantial *federal* question is involved in that the principles involved affect every lawyer practising in the United States courts. A *federal* question of substance is involved, not heretofore determined by this court, as to the extent that a private letter to a judge; private letters to a client not involving moral turpitude or tantamount to crime; or statements as testimony in a judicial hearing in a federal court, constitute guilt of "unprofessional conduct" (p. 31, fol. 92).

Concurrent findings of the courts below (yet, there is one dissent in the Appellate Court) do not relieve this court of the task of examining the foundation for findings.

This court has power to correct error in judgment and to make such disposition as the justice may *at this time require.*

This court is not asked to review any acton of any *state* court (there exists none) but only of a federal court inferior to it.

Law and Rules established by decided cases in this court, among cases decided in lower federal courts.

The Questions Presented and Reasons Relied on, for the Allowance of the Writ.

A.

Conflict of the action of the courts below with views expressed and action taken by this court in the following authorities:

Pennekamp v. Florida, 328 U. S. 331, Reed, J., pp. 334, 348 to 350), (Frankfurter, J., pp. 357, 366, 368); (Murphy, J., pp. 369, 370); (Rutledge, J., pp. 371, 372).

Bridges v. California, 314 U. S. 252, 262 to 268.

Brooklyn Bank v. O'Neill, 324 U. S. 697.

Watts v. Umone, 248 U. S. 9.

Cooke v. U. S., 267 U. S. 517 especially at pp. 532, 533, 538, 539.

Ex Parte Tillinghast, 4 Pet. 108.

Ex Parte Garland, 71 U. S. 333, 378, 379.

Ex Parte Bradley, 74 U. S. 364. 370.
Selling v. Radford, 243 U. S. 51.

B.

1. Whether writing the particular letter (R., p. 50; fols. 148-150), assuming that it is the only matter to be considered, was "unprofessional conduct".

2. Whether writing the letter, as a private letter, warranted *three* years suspension, with like penalty and such consequences inflicted in other courts, including this court.

3 Whether the condemnation for writing the letter did not conflict with Cooke v. U. S., 267 U. S., which did not disapprove of a letter at page 533.

4. Whether the particular verbiage of the letter, assuming that it was not private in character, was such as was "unprofessional conduct" or a want of "private and professional character" as "appears to be fair" (C. C. A. 2nd Cir.) or "personal and professional character and standing are good" (This court Rule 2, 2).

5. Whether the action of the court was warranted, in view of the fact that the letter did not involve any moral turpitude.

6. Whether the writing of the letter was proof of the absence of "fair private character"; was not "good behavior"; was "misconduct" and was "moral or professional delinquency" within the rule of *Ex Parte* Garland, 71 U. S. 333, 378, 379.

7. Whether, assuming that that language used and the letter delivered to the judge was contemptuous, was it proper and sufficient to discipline me as a lawyer in my

profession, inclusive of other courts in the light of *Ex Parte* Garland, 71 U. S. 333 *et seq.* particularly point 7, which ruled that the attorney's admission was not "mere indulgence" nor "a matter of grace and favor, revocable at the pleasure of the court" and in the light of *Ex Parte* Bradley, 72 U. S. 364, where the lawyer spoke disparagingly to the judge, *in and out of court and handed him a letter relating to the subject matter.*

8. Whether the letter was contemptuous and grievous as warranted disciplinary action, in the light of Nye v. U. S., 313 U. S. 33 at point 5.

9. Whether the action such as it was even measured to Selling v. Radford, 243 U. S. 46 at 49, where it was shown that the attorney filed no inventory in a Probate Court estate for 8 years; owed it $21,611.34, said to be "disgracefully dishonest"; had been disbarred; continued to practice and charge fees as an attorney of this court and this court granted him an opportunity to defend.

10. Whether punishment by an inferior federal court for contempt was "inherently and necessarily" a want of "fair private and professional character essential to admission" to this court in the light of Selling v. Radford, 243 U. S. at p. 51.

11. Whether the action of the District Court, as affirmed, one judge disagreeing, was not "impulse to reprisal" as condemned by this court (267 U. S. 539).

12. Whether in view of the withdrawals of the other specifications of the Bill of Particulars, or not pressing them, as stated by the U. S. Attorney, the original *penalty of three years was not oppressive and excessive.*

13. Whether the action of both courts in using instances of complete satisfaction of prior punishment for undisclosed and unrelated past events, without notice to defend or explain; without hearing thereon; in the absence of any causal connection, was not injustice and contravention of justice, in the light of *Ex Parte* Garland, 71 U. S. 333, which did not exclude for treason subsequently pardoned; *Ex Parte* Bradley, 74 U. S. 364, 372, 373, 375, *which disapproved punishment upon one ground with notice to defend upon other grounds;* and Selling v. Radford, 243 U. S. 46, 49, which refused to discipline an attorney of this court with respect to conduct in other courts, without first giving a hearing upon the matters alleged to have been judged in the other courts (R., p. 24, fol. 71).

14. Whether I had not expiated for the previous occurrences, whatever they were, without a hearing *de novo,* if they were to be re-used, and whether it was not error to use those instances, without notice or opportunity to me to review or to mitigate them; and whether it was not error to cumulate the penalty and to mete out punishment for the present occurrence, using the previous matter fully expiated as a base.

15. Whether the "sound discretion" of the District Court was not reviewable and reversible on the facts and the law by the Circuit Court of Appeals and by this Court.

16. Whether as stated by the Appellate Judge, not concurring, that the action of the District Court was *vengeful* (R., p. 142).

17. Whether both courts had not distorted the Canons of Ethics used to support the conclusion and ignored Canons

of Judicial Ethics which were applicable (R., pp. 3, 5, fols. 8 to 15, 73-75).

18. Whether the District Court, as confirmed by the Circuit Court of Appeals, had not used material for its decision which was *de hors* the issues as made by the charges and Bill of Particulars, without notice to me or opportunity to refute the same and had thereby condemned me without opportunity of defense as to such matters (R., pp. 6 to 9, fols. 16 to 27).

19. Whether the courts below were justified in condemning me *for confidential communications between attorney and client,* which I did not disclose and which involved no moral turpitude but only opinion matter and advice which was as fully protected from disclosure, as the client's communications to me were protected (R., pp. 10 to 12, fols. 28 to 35).

20. Whether, by my oral statements immediately retracted and written statements under oath, I had not mitigated or expiated all of my unfortunate remarks as to Judge Kennedy to the extent that I deserved no penalty for them.

21. Whether the District Court had not erroneously condemned me for personal hostility to Judge Clarence G. Galston and, on the contrary, should have found and held that that Judge bore personal bias, prejudice and hostility towards me (R., pp. 17, 25, fols. 49, 50, 73).

22. Whether my letter to Judge Clarence G. Galston was not legally permissible, but of questionable taste with the use of poor discretion in the light of Pennekamp v. Florida, 328 U. S. 331 (R., pp. 18 to 23, fols. 52 to 69).

23. Whether my letter to Judge Clarence G. Galston was not protected and permissible, but bad in taste and indiscrete, by Bridges v. California, 314 U. S. 252, 262, to 268 and the First Amendment to the Constitution.

24. Whether the courts below erred in disregarding the facts of personal hostility evidenced by the conduct of Judge Clarence G. Galston to me as shown in the (R., pp. 53 to 55, fols. 157 to 165).

25. Whether the courts below erred in not holding Judge Clarence G. Galston to the Canons of Judicial Ethics required of him (R., pp. 56 to 61, fols. 166 to 183).

26. Whether the courts below erred in not holding that the remarks as to Judge Kennedy made in the course of a hearing were privileged (R. pp. 64 to 67; fols. 192 to 201) and thus warranted no disciplinary action.

27. Whether the courts below had not erroneously condemned me as a "clear case of misconduct" *(Ex Parte* Wall, 107 U. S. 265, 288), had not abused and made grave irregularity; had not exceeded moderation and judgment; had not acted flagrantly improper *(Ex Parte* Burr, 9 Wheat 529) and *vengefully*, as indicated by Judge Charles E. Clark in his disagreeing opinion (R., pp. 140 to 143) entitling to review by this court, as so held therein.

28. Whether, as indicated in the disagreeing opinion, the courts below were not bound to respect the principles announced by this court as to laymen and newspapers and were not bound to apply them to me as well, even though I am an attorney.

29. Whether the courts below should not have accepted my effort at self punishment and self effacement as well as promise and apology as sufficient mitigation and satisfaction or partial mitigation and satisfaction and not to have indulged "with greater severity of punishmen'" for a letter "privately written to the Judge himself" as Judge Clark said, than fines for contempt imposed in other cases which involved publicity (R., p. 140).

30. Whether the disagreeing judge did not decide with greater logic and justice when he said: "Facing the problem squarely, I think compels the initial concession that here criticism of the court, if properly expressed, could not have been considered out of place" (R., p. 141).

31. Whether the courts below adopted the additional matter, later discarded, as a "shoring-up device" to bolster a proceeding for the letter, and whether that use did not lessen rather than increase confidence in the result, as declared by the disagreeing Judge at Record, p. 142.

WHEREFORE, I respectfully pray that this petition be granted and the writ of certiorari allowed.

April 18, 1047.

JULES CHOPAK,
In Propria Persona,
Appellant,
261 Broadway,
New York 7.

BRIEF IN SUPPORT OF PETITION.

I respectfully ask your honors to excuse me from writing the usual Brief on the law and allow me to tersely skeleton the salient topics or points, *for the reason* that a Brief virtually would be a repetition of most of the matter and decided cases already in the Printed Record.

Instead of being brief and concise the repeated matter would be duplication and instead of simplifying the subjects the Brief would be laboring the court.

My defense, this is my appeal to this court, is entirely on legal grounds. There never was any dispute as to the facts, which I always conceded.

So my Brief on the law will be set forth in classifications as follows:

1. Preface;
2. Those points set forth in my Answer to the charges;
3. Those points set forth in my Assignments of Errors to the Circuit Court of Appeals;
4. Points noticing arguments in the Brief for the District Court in the court below;
5. Those points indicated by the affirming decision of the *majority* (one Judge dissenting) of the Court below; and indicated by the opinion of the dissenting Judge.

1. Preface.

The District Court first charged me with "unprofessional conduct and conduct prejudicial to the administration of

justice" (R., p. 34, fol. 102). This afterwards became *reduced* to "unprofessional conduct" *only* (R., p. 30, fol. 90; p. 118, fol. 354, p. 133, fol. 399).

In turn the "unprofessional conduct" revolved around a letter (R., p. 50, fols. 148-150) termed "insulting" by the majority of the affirming court (R., p. 138) and "ungentlemanly, if not insulting" by the dissenting Judge (R., p. 142).

A Bill of Particulars (R., pp. 37-50, fols. 109 to 150) was intended, as I thought, to inform me as to what I should meet as charges.

1. There were letters I wrote to a client during attorney and client relationship, not of any criminal or fraud nature (R., p. 37, fol. 110).

2. There were statements as testimony made during a hearing (R., p. 37, fol. 110).

3. A letter written to Judge Clarence G. Galston (R., p. 37, fol. 111).

No charges were made of punishment because of failure to appear and personally testify, *when the charges were admitted as fully and as broadly as made.*

No charges were made of affront to any provisions of Canons of Ethics of Bar Associations.

No charges were made that a prior suspension in that court and a denial of reinstatement in another court would be gone into; nor notice given to me to be heard, respond or explain as to them. The references to them, having expiated themselves, merely established a double or treble jeopardy here, as the case may be (R., p. 133, fol. 398).

No charges were made as to letter writing, which was *not* protected by the *attorney and client relationship*, the charges being limited to attorney and client letters.

No charges were made of contempt of court, either civil or criminal, but only as to a private letter written to the Judge himself, termed at the worst "insulting" and "ungentlemanly".

No notice was given that proceedings as to attorneys' fees voluntarily agreed upon by the parties themselves and confirmed by the court, would be reviewed (R., p. 122, fols. 364 to 366) and that there would be extracted from an affidavit of the client (R., p. 123, fol. 369) repudiated by the Official Referee and repudiation confirmed by the offended judge, matter to be used to punish me, when, that judge had previously arbitrarily failed and refused a hearing to me or opportunity to submit a responding affidavit as to it (R., p. 54, fols. 161-162).

No notice was given by charges, Bill of Particulars, or advance information of any sort that the "papers and records in the civil case" would be gone into with opportunity to prepare for and to meet the contentions as to such matters (R., p. 131, fol. 391).

No notice was given that punishment would be given for arguing in defense and in mitigation the decision of this Court in Pennekamp v. The State of Florida, concerning the denunciation of Courts and Judges (R., pp. 131, 132, fols. 393, 394).

2. Points in Answer to Charges.

1. Judge Clarence G. Galston had worked up antipathy and hostility to me for years and was really "gunning" for me (R., pp. 53-55, fols. 157-165).

2. By his actions, he violated the Code of Judicial Ethics also set for him by Bar Associations (R., pp. 56-57, fols. 166-171).

3. His action contravened advice of Chief Justice Stone of this Court (R., pp. 57-58, fols. 171, 172).

4. He acted contrary to expressions of federal appellate and other federal inferior courts (R., pp. 59-60, fols. 177-180).

5. Also, the Court of Appeals, State of New York, sustained my action as to him (R., p. 61, fols. 181-183).

6. I was entitled to use words in the English language dictionary which were not criminal or heinous and entitled to "freedom of speech" as well as other citizens and the Press (R., p. 62, fol. 184; p. 63, fol. 187).

7. None of 3 leading Bar Associations had any precedents against me (R., p. 62, fol. 185; pp. 71-74, fols. 211-221).

8. Under oath, I apologized and retracted for the remarks as testimony under cross-examination as to Judge Kennedy (R., p. 63, fol. 189).

9. As to Judge Kennedy, I explained all the circumstances leading up to the testimony and pointed out, too, that, having been given in a hearing under cross examina-

tion, it might have been privileged (R., pp. 64-67, fols. 190-200).

3. Points in Assignments of Errors to Circuit Court of Appeals.

10. Even Judge Galston did not claim that, by my letter to him, I was seeking special favor in contravention of the Canons of Ethics. (Compare letters, R., pp. 3, 4, fols. 9-11 with pp. 4, 5, fols. 12-14.)

11. The District Court argued erroneously as to Rule 3 of the Canons of Ethics (R., p. 5, fol. 15) as shown by Judge Clark's dissenting views (R., p. 142).

12. Without notice as to the topics, the Courts below discussed and used matter not contained in any notice or the Bill of Particulars (R., pp. 6-9, fols. 16-27).

13. Without recognizing the rule of confidential communications, except when criminal or fraud and like wrongs, the courts below did violence to my confidences (R., pp. 14-15, fols. 42-44).

14. The Courts below, except the Dissenting Judge, did violence to my effort to excuse as to Judge Kennedy (R., p. 16, fols. 46-48).

15. Solely, as to Judge Clarence G. Galston, the courts below (Judge Clark dissenting) refused to be bound by Pennekamp v. Florida, decided by this court (R., pp. 18-23, fols. 52-69).

16. The letter to Judge Clarence G. Galston was neither "moral turpitude", nor evidence of "bad moral charac-

ter''; nor not ''good moral character'', (R., p. 23, fol. 70) but an ''angry'' letter (R., p. 142).

17. The courts below should have found from the entire record that Judge Clarence G. Galston was hostile to me and that his actions were such that I was entitled to claim for bias and prejudice as to him within the meaning of 28 U. S. C. A. 25, even though for short time, by statutory proscription, I could not apply for relief thereunder.

18. The courts below erroneously condemned me, not for failing to meet the issue but for not giving *testimony* as to the whole of the matter, which I had already wholly and mitted under oath (R., p. 28, fol. 84).

4. Points Noticing Arguments for the District Court in the Court Below.

19. In the Court below, the U. S. Attorney for the District Court said ''The gravamen of the complaint'' (Brief, p. 2) was the letter to Judge Clarence G. Galston and argued in Point I (Brief, p. 6) that all action was justified because of this court's decision in Cooke v. U. S. 517. That case however was clearly distinguishable and in any case was certainly no authority for the action of the District Court as to me, for reasons:

1. The Court pursued a wrong remedy, if *Cooke* v. *U. S.*, 267 U. S. 517, should be considered as a pattern. The individual judge should have proceeded against me for a ''contempt'' not in the presence of the Court but so near to him as to have constituted a ''contempt'', as to which I would have had an opportunity to apologize, at least, for the strong, tactless and indiscreet language

or to be punished by fine or imprisonment or both; but not to be impeded and destroyed in my standing and in my business or profession by disciplinary proceeding in other U. S. Courts, which had no grievances against me, as well as even in that court.

2. Otherwise, *Cooke* v. *U. S.*, 267 U. S. 517, is no authority to support the court's action.

3. Whatever the penalty, if any, it could never equal 3 years deprivation from professional business transactions in the Southern District Court and other U. S. Courts.

4. Nor is *Cooke* v. *United States* even remotely an authority here. (a) There, the lawyer deliberately ignored his statutory right to show bias and prejudice (pp. 518 headnote, 519, foot, 532, 533) in the regular way (28 U. S. C. A. 25). When he had time and opportunity to do so, he deliberately took the law into his own hands. (b) There, there were 4 other cases yet to be tried before the same judge or a different judge not before March 2, or after (he wrote the letter on February 15th, 15 days before the term, when he needed only 10 days for his affidavit of prejudice), whereas, here, nothing was to be done but to sign an order and no other business remained and I never had the statutory time to file an affidavit of prejudice.

In the *Cooke* case, there was no occasion to address the Court with any communication whatever, as the verdict had been given. It was then a matter relating to the judgment and finality. Here, the proposed order followed an announced decision. Until promulgated, the order could be altered. As to the prospective order, it was an order "settle order on notice". I had the

right and the procedure to address the Court by a communication of some sort. It could have been a counter-proposed order; a brief; a communication and even a letter in writing *(Cooke* v. *U. S.*, 267 U. S. at p. 533). That is all that I did. It is a fiction and a sham, unworthy of judges in high places to so distort language of Canons of Ethics to say that such a communication was even dreamt, let alone intended, *to be a communication of an argument privately with the Judge as to the merits of a pending cause and a device or attempt to gain a special personal consideration or favor.*

5. Points Made by the Majority and Dissenting Opinions of the Court Below.

20. The majority opinion described the letter written to Judge Clarence G. Galston as "insulting" and stated that a letter written to "appellant's client" was written without "the slightest foundation", yet it required an explanation to give it vitality (R., p. 138).

21. The majority of the court used as argument for affirming the order of the District Court the fact of my non-appearance and my non-testimony (R., p. 139) when I had already admitted under oath everything which had been charged.

22. The majority of the court found that the order was appealable and, therefore, it had the power to review the order and then, notwithstanding, the court proceeded to rule that the measure of the discipline "rested in the sound discretion of the District Court" which in effect nullified the power to review. It is not understandable how an

order can be reviewed as to the substance without also being reviewed as to the consequence (R., p. 140).

23. The majority of the court fell into reversible error upon also considering and approving the action of the District Court in using twice prior disciplining for matters unrelated to the matter before the court without notice, hearing or opportunity to explain or to distinguish (R., p. 140).

24. On the contrary, the dissenting opinion of Clark, Circuit Judge is much more persuasive; more studied; humane and understandable. The dissenting judge (with certain portions eliminated) said (R. pp. 140, 141, 142, 143): CLARK, *Circuit Judge* (dissenting):

"This case has given me much concern. Emphatically and eloquently the Supreme Court has safeguarded the right, even the duty, of free general and public criticism of the courts against repression by fines for contempt. *Pennekamp v. Florida,* 328 U. S. 331; *Bridges v. California,* 314 U. S. 252. This case really presents the same issue, albeit without the same publicity (since the criticism was made privately to the judge himself), but with greater severity of punishment (since appellant lost his professional standing for three years). * * *

"In what I shall have to say, I do not propose to defend the appellant's conduct. As I shall point out, I think he did go so far as to overstep the bounds of gentlemanliness and propriety expected of an officer of the court. Had there been some moderate discipline, with some recognition of the circumstances of extenuation, I should not have disagreed. * * *

"Facing the problem squarely, I think candor compels the initial concession that here criticism of the court, if properly expressed, could not have been considered out of place. Over appellant's objection and contrary to Federal Rules of Civil Procedure, Rule 53(b), a reference to a master had been made of a matter covered by contract of the three parties in interest and quickly settled upon hearing; but appellant, notwithstanding his objections and his success on the merits, found himself taxed with very considerable costs. Under the circumstances, reversal on appeal seems likely, though the expense of the process would have eaten up much of the amount involved. In addition, there seem to have been, or at least so he thought, circumstances of apparent peremptoriness and harshness directed against his interests in the original hearing, thus increasing his sense of injustice.[1] Service of the proposed order called for some response; and a dignified protest, with refusal to submit a counter order, would have been unexceptionable. What he actually wrote the judge, 66 F. Supp. 265, 266, was ungentlemanly, if not insulting; but it was the use of words like "despotic," "rule with passion and vehemence," rather than the fact of criticism, which made the offense. For this I would not say that no punishment should be exacted;

[1] The lawyer who appeared for appellant below and in whom the senior judge said he had "every confidence" presented an affidavit in which he swore that on the original hearing (where the reference was ordered) he attempted to appear in place of appellant to ask for a continuance, but was not allowed to speak, being discourteously ordered to "sit down." *Cf.* Frankfurter, *J.*, in *N. L. R. B.* v. *Donnelly Garment Co.*, S. Ct., March 3, 1947: "It takes time to avoid even the appearance of grievances. But it is time well spent, even though it is not easy to satisfy interested parties, and defeated litigants, no matter how fairly treated, do not always have the feeling that they have received justice."

three years' suspension does, however, suggest the Vengeful.[2]

"True, the record, and the opinion below, discuss additional matters. But the United States Attorney put the letter to us as the crucial issue; and it seems to me that this must be so. In fact, the reference to these other matters seems so much a shoring-up device as, in my mind, to lessen, rather than increase, confidence in the result. Reference to this angry letter as also a violation of the ethical canon against "Attempts to Exert Personal Influence on the Court" is far from persuasive. * * * The allusion to another judge, even had it been direct and apt, might still seem a doubtful ground when thus extracted from a personal letter to the client; it seems all the more so in its actual vague, unoriented form which only became at all direct when at the open hearing appellant conceded its impropriety in trying somewhat desperately to withdraw it and apologize for it. In fact, his attempt at exculpation —that he did not actually know the judge in question— is used against him. 66 F. Supp. 265, 269. Finally he is condemned for not appearing at the proceedings on order of the court. For this he is properly to be criticized; but it seems to me one can only read his several letters to the court as showing not defiance, but fear and an attempt at finding some means of escaping the judgment which he cor-

[2] While it was natural and proper for the judge involved to refuse to sit in the disciplinary proceedings, this probably worked against appellant by substituting subconscious pressures of group loyalty for the opposite pressure on a judge to lean backwards in a case involving himself.

rectly foresaw.[3] Reading them, I cannot but believe that a suggestion from the Court as to the desirability and utility of an apology would have gone far towards effecting adjustment of this matter without the publicity it is now of necessity receiving." • • •

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[3] Thus see his final letter of May 31, 1946: "sincere regret that your Honors may feel any affront because of my non-personal appearance"; "the act is not with any intention of personal disrespect or offense. I am suffering intensely from the consequences of the trouble as a whole. I am not without fear of the outcome"; "I have visited upon myself voluntarily the following punishment [*i. e.*, withdrawal from all cases before the court and a resolution never to appear again before any of the judges]"; "I pray your Honors to accept this letter as the solution and the termination of the matter. I pray you not to grind me down to disgrace beyond all of the loss that is now being occasioned by this matter," etc.

Respectfully submitted,

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In Propria Persona,
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